
HOUSE BILL No. 1371

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-1-1-11; IC 22-2-15.

Synopsis: Paid breaks and sick leave for employees. Requires certain employers to give employees who are scheduled to work at least 30 hours in a week a paid break of at least one hour for each day that the employee is scheduled to be on duty in a week. Provides for payment to the employee instead of a paid break under certain circumstances. Requires certain employers to provide certain employees a paid sick leave of at least one hour for each 30 hours that the employee is scheduled to be on duty in a week. Provides that the failure to give a paid break or to pay compensation for a missed break or the failure to provide paid sick leave is a Class A infraction for the first violation, and a Class B misdemeanor for a subsequent violation. Provides for enforcement by the commissioner of labor.

Effective: July 1, 2009.

Blanton

January 13, 2009, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1371

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-1-1-11, AS AMENDED BY P.L.35-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 11. The commissioner of labor is authorized and
4 directed to do the following:

5 (1) To investigate and adopt rules under IC 4-22-2 prescribing
6 what safety devices, safeguards, or other means of protection shall
7 be adopted for the prevention of accidents in every employment
8 or place of employment, to determine what suitable devices,
9 safeguards, or other means of protection for the prevention of
10 industrial accidents or occupational diseases shall be adopted or
11 followed in any or all employments or places of employment, ~~and~~
12 to adopt rules under IC 4-22-2 applicable to either employers or
13 employees, or both for the prevention of accidents and the
14 prevention of industrial or occupational diseases, **and to adopt**
15 **rules concerning sick leave to be afforded an employee under**
16 **IC 22-2-15-8.**

17 (2) Whenever, in the judgment of the commissioner of labor, any



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place of employment is not being maintained in a sanitary manner or is being maintained in a manner detrimental to the health of the employees therein, to obtain any necessary technical or expert advice and assistance from the state department of health. The state department of health, upon the request of the commissioner of labor, shall furnish technical or expert advice and assistance to the commissioner and take the steps authorized or required by the health laws of the state.

(3) Annually forward the report received from the mining board under IC 22-10-1.5-5(a)(5) to the legislative council in an electronic format under IC 5-14-6 and request from the general assembly funding for necessary additional mine inspectors.

(4) Administer the mine safety fund established under IC 22-10-12-16.

SECTION 2. IC 22-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 15. Employee Employment Related Benefits

Sec. 1. This chapter does not:

- (1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or
- (2) negate a bona fide agreement between an employee and employer;

concerning a break or sick leave afforded to an employee by an employer.

Sec. 2. As used in this chapter, "employee" means a person employed or permitted to work or perform any service for remuneration or under a contract for hire, written or oral, express or implied, by an employer in an occupation. However, the term does not include the following:

- (1) A member of a religious order who is performing a service for that order.
- (2) An ordained, a commissioned, or a licensed minister, a priest, a rabbi, a sexton, a Christian Science reader, or an imam who is performing services for a religious organization.
- (3) A person who is employed as a salesperson, if all of the person's services are performed for remuneration solely by commission.
- (4) A person employed in an executive, an administrative, or a professional occupation if the person has the authority to employ or discharge.
- (5) An employee with respect to whom the federal Interstate

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Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a carrier subject to IC 8-2.1.

(6) An employee subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).

(7) An employee of a state agency (as defined in IC 4-13-2-1.5).

(8) An employee of a municipal corporation.

(9) An employee of the federal government.

Sec. 3. As used in this chapter, "employer" means an individual, a partnership, an association, a limited liability company, a corporation, or a business trust. The term excludes a municipal corporation and the state.

Sec. 4. As used in this chapter, "duty" means the active performance of functions required by an employer and does not imply physical presence at the location of employment or the employer.

Sec. 5. As used in this chapter, "health care provider" has the meaning set forth in IC 16-18-2-163.

Sec. 6. As used in this chapter, "municipal corporation" has the meaning set forth in IC 36-1-2-10.

Sec. 7. (a) An employer shall provide an employee who is scheduled to be on duty at least thirty (30) hours in a week a paid break of at least one (1) hour for each day that the employee is scheduled to be on duty in a week.

(b) If the employer has so few employees so that a break as required under subsection (a) would cause a hardship to the employer's business, the employer and an employee may agree that the employee shall not take the break. If the employee does not take the break, the employer shall pay the employee at least the usual hourly rate paid by the employer to the employee for the hour that the employee works instead of taking a break.

(c) An employer and an employee may agree that the employee will work instead of taking a break required under subsection (a). If the employer and employee reach this agreement, the employer shall pay the employee at least the usual hourly rate paid by the employer to the employee for the hour that the employee works instead of taking a break.

Sec. 8. (a) An employer shall provide an employee who is scheduled to be on duty at least thirty (30) hours in a week a paid sick leave of at least one (1) hour for each thirty (30) hours that the

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1 employee is scheduled to be on duty in a week.

2 (b) The sick leave provided in subsection (a) may be
3 accumulated indefinitely to be used by the employee for:

4 (1) illness of the employee; or

5 (2) visits to a health care provider of the employee.

6 Sec. 9. The commissioner of labor appointed under IC 22-1-1-2
7 shall enforce this chapter and has the power and authority under
8 IC 22-1-1-16 to enter a place of employment for the purpose of
9 enforcing this chapter.

10 Sec. 10. (a) An employer or an agent of an employer that
11 violates section 7 or 8 of this chapter commits a Class A infraction.

12 (b) An employer or an agent of the employer who recklessly,
13 knowingly, or intentionally violates section 7 or 8 of this chapter,
14 having a prior unrelated judgment for a violation of section 7 or 8
15 of this chapter, commits a Class B misdemeanor.

16 (c) Each time an employer or an agent of an employer violates
17 this chapter against an employee the employer or the agent of the
18 employer commits a separate violation.

19 Sec. 11. IC 22-1-1-8 applies to a violation of this chapter.

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